

## MEETING RECORD

**NAME OF GROUP:** COUNTY BOARD OF ZONING APPEALS

**DATE, TIME AND PLACE OF MEETING:** Friday, August 13, 2004, 2:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Dennis Heckman, Steve Hollman and Ed Woeppel; (Lynette Nelson and Matthew Warner absent). Dale Stertz from Building and Safety; Kristy Mundt of the County Attorney's office; Mike DeKalb and Teresa McKinstry of the Planning Dept. and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular County Board of Zoning Appeals Meeting

Chair Dennis Heckman called the meeting to order and requested a motion approving the minutes of the regular meeting held June 13, 2003. Motion for approval made by Hollman, seconded by Heckman. Motion for approval carried 3-0: Heckman, Hollman and Woeppel voting 'yes'; Nelson and Warner absent.

**COUNTY BOARD OF ZONING APPEALS NO. 115**  
**REQUESTED BY DIANE BROWDER FOR A VARIANCE TO THE MINIMUM LOT AREA,**  
**LOT WIDTH AND FRONTAGE, ON PROPERTY LOCATED AT 20901 S. 134<sup>TH</sup> STREET**  
**PUBLIC HEARING:** August 13, 2004

Members present: Heckman, Hollman and Woeppel; Nelson and Warner absent.

Diane Browder appeared to present the application. The back half of her property is inaccessible. She has to go across the adjacent farmers land to get to the old railroad right-of-way. The farmer has to go across her property to get to the rest of his property. Her lot is already smaller than 20 acres, and she believes it is already a variance. The back half will be split into an acreage so the farmer can join that into his property.

Heckman inquired if Ms. Browder owns all the property from 120<sup>th</sup> Street to 134<sup>th</sup> Street. Ms. Browder replied that her property goes to the ½ mile.

Woeppel wanted clarified that the applicant is not going to create another acreage. Ms. Browder replied that the western part of the right-of-way would become part of the adjacent farmers land. The legal description only describes the 5.6 acres. She would have preferred to have the entire piece platted out.

Mike DeKalb noted that the aerial photo shows the entire parcel that the applicant owns. The subdivision was denied because staff does not have the ability to make a small lot, smaller. We are not really creating a second small piece, we are splitting it and adjoining it to the adjacent farmer.

Heckman questioned when the residence was built. Ms. Browder replied that she has lived there for 15 years.

Mr. DeKalb stated that Lancaster County has a lot of old right-of-way. The old segments that exist between roadways have been grandfathered as buildable lots. Midway on the lot behind the applicant's house is a drainageway. It is physically separated by a land feature.

Heckman believes the 300 feet existed for the railroad to maintain the bridge or some structure. Mr. DeKalb agreed.

Heckman wondered when these pieces were grandfathered. Mr. DeKalb replied that 1979 was the last zoning update. These predate the 1979 ordinance and have been around as long as he can remember. The interpretation has been that where mile sections cut into the right-of-way, they have been grandfathered as separate segments.

Heckman stated that it is his recollection that these pieces of railroad were not abandoned until after 1979. Mr. DeKalb noted that the railroad itself predated any zoning standards.

Heckman noted that the application references Union Pacific Railroad. It is the Missouri Pacific Railroad.

No one appeared in opposition.

**ACTION:**

**August 13, 2004**

Heckman believes this is a unique circumstance and a grandfathered situation. There is the history of this piece of right-of-way and it won't create another non-conforming lot. It is not being adjusted.

Hollman agreed. As long as another smaller lot is not being created, he is in favor of approving this variance.

Woeppel wondered if we look at the land usage and potential, perhaps it is better off having this piece attached to another larger parcel and use it for the intent that it was meant to be.

Woeppel moved approval, seconded by Hollman. Motion for approval carried 3-0: Heckman, Hollman and Woeppel voting 'yes'; Nelson and Warner absent.

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Heckman moved to add an item to the agenda to hold elections, seconded by Woeppel. Motion carried 3-0; Heckman, Hollman and Woeppel voting 'yes'; Nelson and Warner absent.

Heckman would like to hold elections due to the infrequency of the meetings of this group. Heckman moved Steve Hollman as Chair and Ed Woeppel as Vice-Chair. Motion died for lack of a second.

There being no further business, the meeting was adjourned at 3:10 p.m.